

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SHAWN COLEMAN,

Plaintiff,

v.

A. PRESTON, H. WILKERSON, MARIE
FELIX-JONES, and E. BLACKMON,

Defendants.

ORDER

17-CV-5031 (MKB) (LB)

MARGO K. BRODIE, United States District Judge:

Plaintiff Shawn Coleman, proceeding *pro se*, commenced the above-captioned action on August 21, 2017, against Defendants A. Preston, H. Wilkerson, Marie Felix-Jones, and E. Blackmon, alleging that Defendants violated his due process rights. (Compl., Docket Entry No. 1.) By Report and Recommendation dated July 24, 2018, Magistrate Judge Lois Bloom recommended that the Court dismiss Plaintiff's claims for failure to appear and comply with court orders (the "R&R"). (R&R, Docket Entry No. 35.) For the reasons set forth below, the Court adopts the R&R and dismisses Plaintiff's claims.

I. Background

On February 16, 2018, Judge Bloom scheduled an initial conference for March 22, 2018. (Order dated Feb. 16, 2018, Docket Entry No. 19.) Plaintiff failed to appear. (Minute Entry dated Mar. 22, 2018, Docket Entry No. 23.) On March 22, 2018, Judge Bloom ordered Plaintiff to show good cause for his failure to appear at the initial conference and ordered the parties to attend a rescheduled initial conference on April 24, 2018. (Order dated Mar. 22, 2018, Docket Entry No. 24.) On April 19, 2018, Defendants, at Plaintiff's request, asked that the court allow

Plaintiff to appear by telephone for the April 24, 2018 conference, or adjourn the conference. (Def. Letter dated Apr. 19, 2018, Docket Entry No. 25.) Judge Bloom rescheduled the conference to June 5, 2018. (Order dated Apr. 19, 2018, Docket Entry No. 26.) Plaintiff failed to attend. (Minute Entry dated June 5, 2018, Docket Entry No. 30.) On June 5, 2018, Judge Bloom *sua sponte* issued a R&R recommending that Plaintiff's case be dismissed for failure to comply with court orders and failure to appear at a court-ordered conference (the "June R&R"). (June R&R, Docket Entry No. 31.) Plaintiff objected to the June R&R on June 28, 2018, (Pl.'s Obj. to R&R, Docket Entry No. 32), and on July 2, 2018, Judge Bloom vacated the June R&R and scheduled a conference for July 24, 2018, (Order dated July 2, 2018, Docket Entry No. 33). In addition, Judge Bloom notified Plaintiff that he had one last opportunity to appear for a court-ordered conference and if he failed to appear, she would recommend that the case be dismissed. (Order dated July 2, 2018.) Plaintiff failed to appear at the July 24, 2018 conference. (Minute Entry dated July 24, 2018, Docket Entry No. 34.)

On July 24, 2018, Judge Bloom *sua sponte* issued the R&R, recommending that the Court dismiss Plaintiff's claims for failure to appear and comply with court orders. (R&R.) The R&R was mailed to Plaintiff. Neither party has objected to the R&R.

II. Discussion

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "[F]ailure to object timely to a magistrate judge's report may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object." *Eustache v. Home Depot U.S.A., Inc.*, 621 F. App'x 86, 87 (2d Cir. 2015) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38

(2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App'x 107, 109 (2d Cir. 2013) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.” (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) (“[A] party waives appellate review of a decision in a magistrate judge’s Report and Recommendation if the party fails to file timely objections designating the particular issue.” (citations omitted)).

The Court has reviewed the unopposed R&R and, finding no clear error, adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1).

III. Conclusion

For the foregoing reasons, the Court dismisses the action for failure to appear and comply with court orders. The Clerk of Court is directed to close this case.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: November 13, 2018
Brooklyn, New York